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### **APPENDICES:**

- A: Separation Action Control Sheet (DA Form 5138-R)
- B: Request for Legal Action
- C: Family Care Counseling (DA Forms 5304-R & 5305-R)
- D: 1-16 Counseling
- E: Pregnancy Counseling
- F: Benefits at Separation Chart

## **PREFACE**

This Administrative Separations Guide is a user-friendly resource that summarizes the substantive and procedural requirements for the most common types of administrative separation (chapter) actions. It is specifically designed to assist commanders in initiating and processing these actions in an expeditious and error-free manner.

Your Battalion and Brigade legal personnel are responsible for preparing the documents to separate a soldier from the U.S. Army and for processing those documents through the system. The Army standard for processing a chapter action from initiation to separation is 15 working days when no board is required. Incomplete or inaccurate documentation slows down this process. Consistent use of this guide in conjunction with AR 635-200 will help ensure separation actions are complete and accurate, while protecting the due process rights of the soldier being recommended for separation from the United States Army.

I strongly encourage all leaders involved in processing soldiers for administrative separation to consult with your supporting Trial Counsel if you have any questions (533-5524/0569).

11 May 2001

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## Frequently Asked Questions About Chapter Actions

### What regulation governs administrative separation actions?

Answer: AR 635-200, Enlisted Personnel, dated 1 Nov 00, is the controlling regulation. The regulation is available online at <http://www.usapa.army.mil>.

### How long should it take to process a separation action?

Answer: Processing time for voluntary requests and involuntary separation actions when the Notification Procedure is used should not normally exceed 15 working days. Processing time when the Administrative Board Procedure is utilized should not normally exceed 50 working days. Soldiers may be separated using the Notification Procedure for all chapters except as follows:

- The commander recommends separation under Other Than Honorable (OTH) conditions;
- Separation for Homosexual Conduct UP AR 635-200, Chapter 15; or
- The soldier has more than six years of service and requests a board.

To minimize processing time, it is essential that all required documents, especially medical or mental status evaluations (if required), be included in the chapter packet when it is forwarded to your supporting legal specialist/NCO for preparation and assembly of the chapter paperwork. Processing time on each separation action should be tracked using DA Form 5138-R (Appendix A).

### When is a medical examination required?

Answer: Unless waived by HQDA, a medical examination is required in the case of a soldier being processed for involuntary separation under the following chapter provisions:

- Chapter 5-3: Secretarial Authority
- Chapter 5-11: Failure to Meet Procurement Medical Fitness Standards
- Chapter 5-12: Failure After Enlistment to Qualify Medically for Flight Training
- Chapter 8: Pregnancy
- Chapter 9: Alcohol or Other Drug Abuse Rehabilitation Failure
- Chapter 11-3**b**: Women Who Become Pregnant While Still in Training Status
- Chapter 13: Unsatisfactory Performance
- Chapter 14-12**a**: Minor Disciplinary Infractions
- Chapter 14-12**b**: Pattern of Misconduct
- Chapter 14-12**c**: Commission of a Serious Offense
- Chapter 15: Homosexual Conduct
- Chapter 18: Failure to Meet Body Fat Standards

Soldiers cannot “waive” the medical exam.

**Can a soldier be held past his/her ETS to be chaptered?**

Answer: No. The command cannot retain a soldier beyond his or her ETS date to complete involuntary separation proceedings (AR 635-200, para. 1-26).

**If a soldier is being processed for a medical discharge, can he still be chaptered?**

Answer: Ordinarily, disposition through medical channels takes precedence over administrative separation processing (para. 1-33). If a soldier being processed under Chapter 7 (Fraudulent Entry), Chapter 14 (Misconduct), or Chapter 15 (Homosexual Conduct) does not meet medical retention standards, he or she must be referred to a Medical Evaluation Board (MEB). If the MEB findings indicate referral to a Physical Evaluation Board (PEB), the separation action must be forwarded to the General Court-Martial Convening Authority (GCMCA) through the Staff Judge Advocate. Only if the GCMCA determines in writing that the soldier's medical condition is not the direct or substantial contributing cause of the conduct that led to the initiation of separation action may the command proceed with the administrative elimination.

**Does a soldier have a right to consult with an attorney before being processed for administrative separation?**

Answer: All soldiers pending involuntary separation have the right to consult with an attorney concerning their rights, unless they waive that right.

**How do I ensure a soldier pending separation action pays his or her outstanding debts to the U.S. Government?**

Answer: The Finance Office places a soldier's pay in accrual if there are outstanding debts to the U.S. Government. A soldier, however, will not be retained on active duty simply to satisfy a debt to the U.S. Government or another individual (AR 635-200, para. 1-25).

**Can a soldier be involuntarily separated from the Army if he or she has completed more than 18 years of active Federal service?**

Answer: Yes. The decision to separate such a soldier, however, must be approved by HQDA (TAPC-PDT-P) (AR 635-200, para. 1-19f).

**If I have a question about a separation action, to whom can I talk?**

Answer: Any questions regarding any information contained in this guide can be directed to your Brigade Legal NCO or Trial Counsel (533-0570/5524).

**How do I schedule a soldier for a Chapter Physical?**

Answer: Call the U.S. Army Raymond W. Bliss Army Health Center (533-1203) to schedule an appointment.

**How do I schedule a soldier for a Chapter Mental Status Evaluation?**

Answer: Call the Community Mental Health Service (533-5161) to schedule an appointment.

### **CHAPTER 5-3: SECRETARIAL AUTHORITY**

This chapter is used when no other provision applies and early separation is clearly in the best interests of the Army. Such cases include:

- Soldiers acquitted at a court-martial by reason of lack of mental responsibility
- Soldiers retained by a board who the separation authority believes should nevertheless be separated
- Soldiers with a HIV infection
- Soldiers who refuse to submit to medical care
- Soldiers whose religious practices cannot be accommodated.

|                                    |   |
|------------------------------------|---|
| <b>1-16 Counseling Required:</b>   | No  |
| <b>Medical Exam Required:</b>      | Yes (para. 1-32 <u>a</u> )                  |
| <b>Mental Evaluation Required:</b> | No (para. 1-32 <u>b</u> )                   |
| <b>Separation Procedure:</b>       | Notification (para. 5-3 <u>d</u> )          |
| <b>Approval Authority:</b>         | SEC ARMY (TAPC-PDT-P) (para. 5-3 <u>a</u> ) |
| <b>Type of Discharge:</b>          | Honorable or General (para. 5-1 <u>a</u> )  |

**Note:** Be sure to discuss the specific facts and circumstances surrounding the proposed action with your Brigade Legal NCO or Trial Counsel before initiating an involuntary separation action under this provision.

#### **Documents Required for Chapter:**

- ( ) Request for Legal Action (Appendix B) for involuntary separation action or DA Form 4187 for voluntary separation action
- ( ) Supporting documentation
- ( ) Education benefits counseling
- ( ) Debt avoidance counseling
- ( ) DA Form 2A/Enlisted Record Brief
- ( ) DA Form 2-1
- ( ) DA Form 268, Suspension of Favorable Personnel Action (Flag) (if soldier is being recommended for involuntary separation)

## **CHAPTER 5-8: INVOLUNTARY SEPARATION DUE TO PARENTHOOD (LACK OF AN ADEQUATE FAMILY CARE PLAN)**

Soldiers will be considered for involuntary separation when parental obligations interfere with fulfillment of military responsibilities as indicated by:

- Inability to perform prescribed duties satisfactorily
- Repeated absenteeism
- Repeated tardiness
- Inability to participate in field exercises
- Inability to perform duties such as CQ or SDNCO
- Lack of an adequate family care plan (AR 600-20)

|                                    |  |
|------------------------------------|--|
| <b>1-16 Counseling Required:</b>   | Yes (para. 5-8 <b><u>b</u></b> )   |
| <b>Medical Exam Required:</b>      | No (para. 1-32 <b><u>a</u></b> )   |
| <b>Mental Evaluation Required:</b> | No (para. 1-32 <b><u>b</u></b> )   |
| <b>Separation Procedure:</b>       | Notification (para. 5-8 <b><u>c</u></b> )  |
| <b>Approval Authority:</b>         | Bde Cdr [para. 1-19 <b><u>c</u></b> (1)]   |
| <b>Type of Discharge:</b>          | Honorable or General (para. 5-1 <b><u>a</u></b> ). A General Discharge may be warranted based on the soldier's substandard duty performance. |

**Note:** Command does not have to wait the full amount of time (30 days) before initiating separation action **IF** soldier provides a statement stating inability to provide an adequate family care plan now or in the future.

### **Documents Required for Chapter:**

- ( ) Request for Legal Action (Appendix B)
- ( ) DA Form 5304 / 5305-R, Family Care Counseling, IAW AR 600-20, para. 5-5 (Appendix C)
- ( ) Preliminary Family Care Plan counseling statement including 1-16 counseling language (Appendix D) informing soldier that failure to provide an adequate family care plan could result in separation.
- ( ) Written statement from soldier stating he/she cannot develop an adequate family care plan or counseling statement from the commander stating that the soldier has not developed an adequate family care plan and is being recommended for separation.
- ( ) Education benefits counseling
- ( ) Debt avoidance counseling
- ( ) DA Form 2A/Enlisted Record Brief
- ( ) DA Form 2-1
- ( ) DA Form 268, Suspension of Favorable Personnel Action (Flag)

## **CHAPTER 5-11: SEPARATION OF PERSONNEL WHO DO NOT MEET PROCUREMENT MEDICAL FITNESS STANDARDS**

Soldiers who were not medically qualified under procurement medical fitness standards at enlistment (or prior to entry on AD or ADT for initial entry training) will be separated.

Medical proceedings must show that an appropriate military medical authority identified a medical condition within six months of the soldier's initial entrance on AD that -

1. Would have disqualified the soldier for entry into the military had it been detected in time; and
2. Does not disqualify the soldier for retention UP AR 40-501, Chapter 3.

|                                   |  |
|-----------------------------------|--|
| <b>1-16 Counseling Required:</b>  | No   |
| <b>Medical Exam Required:</b>     | Yes (must show disqualifying condition identified within six months of entry onto active duty) |
| <b>Mental Evaluation Required</b> | No (para. 1-32b)   |
| <b>Separation Procedure:</b>      | Notification   |
| <b>Approval Authority:</b>        | Bde Cdr [para. 1-19c(1)]   |
| <b>Type of Discharge:</b>         | Honorable or General (para. 5-1a)  |

### **Documents Required for Chapter:**

- ( ) Request for Legal Action (Appendix B).
- ( ) Evidence of medical proceedings that shows the soldier has a disqualifying condition that was identified within six months of entry on AD.
- ( ) Entrance medical showing no waiver of disqualifying condition was granted.
- ( ) Statement from medical officer that the identified medical condition does not disqualify the soldier for retention in the military UP AR 40-501, chapter 3.
- ( ) Education benefits counseling.
- ( ) Debt avoidance counseling
- ( ) DA Form 2A/Enlisted Record Brief.
- ( ) DA Form 2-1.
- ( ) DA Form 268, Suspension of Favorable Personnel Action (Flag).



## **CHAPTER 5-13: SEPARATION BECAUSE OF PERSONALITY DISORDER**

Soldiers will be considered for involuntary separation when diagnosed with a personality disorder (deeply ingrained maladaptive pattern of behavior of long duration) that interferes with soldier's ability to perform duty.

|                                    |                            |
|------------------------------------|----------------------------|
| <b>1-16 Counseling Required:</b>   | Yes (para. 5-13e)          |
| <b>Medical Exam Required:</b>      | No (para. 1-32a)           |
| <b>Mental Evaluation Required:</b> | Yes (para. 1-32b)          |
| <b>Separation Procedure:</b>       | Notification (para. 5-13f) |
| <b>Approval Authority:</b>         | Bde Cdr (para. 1-19c(1))   |
| <b>Type of Discharge:</b>          | Honorable (para. 5-13h)    |

### **Documents Required for Chapter:**

- ☐ Request for Legal Action (Appendix B).
- ☐ Mental Examination **signed by Psychiatrist or Doctoral Level Licensed Clinical Psychologist.**
- ☐ All counseling statements including 1-16 counseling language (Appendix D) describing inability to perform because of personality disorder.
- ☒ Education benefits counseling.
- ☒ Debt avoidance counseling
- ☐ DA Form 2A/Enlisted Record Brief.
- ☐ DA Form 2-1.
- ☐ DA Form 268, Suspension of Favorable Personnel Action (Flag).

## **CHAPTER 5-16: EARLY SEPARATION TO FURTHER EDUCATION**

Soldiers (other than those serving initial enlistments of less than 3 years) can request early release (no more than 90 days) from the Army to attend a specific term at an accredited college, university, vocational school or technical school.

|                                    |                                   |
|------------------------------------|-----------------------------------|
| <b>1-16 Counseling Required:</b>   | No                                |
| <b>Medical Exam Required:</b>      | No (para. 1-32a)                  |
| <b>Mental Evaluation Required:</b> | No (para. 1-32b)                  |
| <b>Approval Authority:</b>         | Bde Cdr [para. 1-19c(1)]          |
| <b>Type of Discharge:</b>          | Honorable or General (para. 5-1a) |

**Note:** Soldiers will not normally be separated more than 10 days prior to the class starting date. If, however, the soldier can demonstrate that 10 days will create an undue hardship, he/she can be separated up to 30 days prior to the class starting date. Combining the provisions of this paragraph with other early release programs to affect a separation action more than 90 days prior to ETS is prohibited.

### **Documents Required for Chapter:**

- ( ) DA Form 4187 submitted by soldier seeking early separation
- ( ) An acceptance letter from the educational facility stating:
  - ( ) the specific term or course the soldier has been accepted into;
  - ( ) the last acceptable registration date; and
  - ( ) the educational facility has been accredited by the Veteran's Administration.
- ( ) Evidence that the soldier has paid or is able to pay all school entry fees (tuition, registration fees, etc.) Such evidence could be paid receipts or copy of LES showing they have made their full contribution to the Montgomery GI Bill fund.
- ( ) Written statement from the company commander that the soldier is not mission essential to the unit.
- ( ) Education benefits counseling
- ( ) Debt avoidance counseling
- ( ) DA Form 2A/Enlisted Record Brief
- ( ) DA Form 2-1

## **CHAPTER 5-17: SEPARATION BECAUSE OF OTHER PHYSICAL OR MENTAL CONDITION**

Soldiers will be considered for involuntary separation under this paragraph on the basis of other physical or mental conditions not amounting to disability (AR 635-40), and excluding conditions appropriate for separation processing under paragraph 5-11 or 5-13, that potentially interfere with assignment to or performance of duty. Examples include:

- Chronic airsickness/seasickness
- Enuresis
- Sleepwalking
- Severe nightmares
- Claustrophobia
- Dyslexia

|                                  |   |
|----------------------------------|---|
| <b>1-16 Counseling Required:</b> | Yes (para. 5-17 <u>c</u> )                                  |
| <b>Medical Required:</b>         | Yes (para. 1-32 <u>a</u> ) (if applicable)                  |
| <b>Mental Required:</b>          | Yes (para. 1-32 <u>b</u> ) (if applicable)                  |
| <b>Separation Procedure:</b>     | Notification or Administrative Board (para. 5-17 <u>e</u> ) |
| <b>Approval Authority:</b>       | Bde Cdr [para. 1-19 <u>c</u> (1)]                           |
| <b>Type of Discharge:</b>        | Honorable or General (para. 5-1 <u>a</u> )                  |

### **Documents Required for Chapter:**

( ) Request for Legal Action (Appendix B)

#### Either

( ) Mental Examination **signed by Psychiatrist or Licensed Clinical Psychologist** if separation is based on a mental condition

#### or

( ) Medical Examination if separation is based on a medical condition

( ) All counseling statements including 1-16 counseling language (Appendix D) describing inability to perform because of personality disorder

( ) Education benefits counseling

( ) Debt avoidance counseling

( ) DA Form 2A/Enlisted Record Brief

( ) DA Form 2-1

( ) DA Form 268, Suspension of Favorable Personnel Action (Flag)

## **CHAPTER 6: SEPARATION BECAUSE OF DEPENDENCY OR HARDSHIP**

A soldier may request discharge on the basis of a genuine dependency or hardship (AR 635-200, paragraph 6-3)

- Dependency exists when death or disability of a member of a soldier's (or spouse's) immediate family causes that family member to rely upon the soldier for principal care or support.
- Hardship exists when in circumstances not involving death or disability of a member of the soldier's (or spouse's) immediate family, separation from the Service will materially affect the care or support of the family by alleviating undue or genuine hardship.
- Parenthood of married soldiers
- Sole parents

|                                  |   |
|----------------------------------|---|
| <b>1-16 Counseling Required:</b> | No  |
| <b>Medical Required:</b>         | No  |
| <b>Mental Required:</b>          | No  |
| <b>Separation Procedure:</b>     | Notification if General discharge recommended (para. 6-11c) |
| <b>Approval Authority:</b>       | Bde Cdr [para. 1-19c(1)]                                    |
| <b>Type of Discharge:</b>        | Honorable or General (para. 6-11)                           |

### **Documents Required for Chapter:**

( ) Affidavit from soldier explaining conditions. The Company Commander will recommend approval or disapproval on the DA Form 4187 and forward the action through the chain of command to the approval authority. The intermediate commander will either disapprove the request or recommend approval and if recommending approval, will specify which characterization of discharge is appropriate, either Honorable, or General, Under Honorable Conditions.

( ) Affidavit or statement from family member(s) on behalf of the soldier substantiating the dependency or hardship claim (other than sole parents or parenthood of married soldiers).

( ) Affidavits by at least two agencies or individuals, other than family members, substantiating the dependency or hardship claim (i.e. Red Cross, Chaplain, Family Physician).

( ) Detailed statement to establish monthly income and expenses (if basis is financial difficulty).

( ) Death certificate or valid proof of death in the family (if basis is because of a death).

( ) Physician's statement with diagnosis and date of disability (if basis is because of a disability).

( ) If sole parenthood results from divorce or legal separation, a judicial decree or court order awarding child custody to the soldier will also be included.

( ) Education benefits counseling

( ) Debt avoidance counseling

( ) DA Form 2A/Enlisted Record Brief

( ) DA Form 2-1

## **CHAPTER 7: FRAUDULENT ENLISTMENT**

Fraudulent enlistment is the procurement of an enlistment, reenlistment, or period of active service through any deliberate material misrepresentation, omission, or concealment of information which, if known and considered by the Army at the time of enlistment or reenlistment, might have resulted in rejection. Some examples of fraudulent enlistment are:

- Concealment of Prior Service
- Concealment of True Citizenship Status
- Concealment of Conviction by Civil Court
- Concealment of Record as a Juvenile Offender
- Concealment of Medical Defects
- Concealment of Absence Without Leave or Desertion from Prior Service
- Misrepresentation of Intent with Regard to Legal Custody of Children

|                                    |   |
|------------------------------------|---|
| <b>1-16 Counseling Required:</b>   | No  |
| <b>Medical Exam Required:</b>      | No  |
| <b>Mental Evaluation Required:</b> | No  |
| <b>Separation Procedure:</b>       | Notification or Administrative Board (para. 7-18c, d) |
| <b>Approval Authority:</b>         | Bde Cdr [para. 1-19c(1)]                              |
| <b>Type of Discharge:</b>          | Honorable, General, or OTH (para. 7-23)               |

### **Documents Required for Chapter:**

- ( ) Request for Legal Action (Appendix B)
- ( ) Enlistment contract
- ( ) Evidence of enlistment fraud
- ( ) Education benefits counseling
- ( ) Debt avoidance counseling
- ( ) DA Form 2A/Enlisted Record Brief
- ( ) DA Form 2-1
- ( ) DA Form 268, Suspension of Favorable Personnel Action (Flag)

## **CHAPTER 8: SEPARATION OF ENLISTED WOMEN - PREGNANCY**

This chapter establishes policy and procedures and provides authority for voluntary separation of enlisted women because of pregnancy.

|                                    |   |
|------------------------------------|---|
| <b>1-16 Counseling Required:</b>   | No (para. 1-16a) <b>but</b> immediate commander will ensure that the soldier completes the Pregnancy Counseling Checklist (Appendix E). |
| <b>Medical Exam Required:</b>      | Yes (para. 1-32a)   |
| <b>Mental Evaluation Required:</b> | No  |
| <b>Separation Procedure:</b>       | Notification (para. 8-3c)   |
| <b>Approval Authority:</b>         | Bn Cdr [para. 1-19c(1)]   |
| <b>Type of Discharge:</b>          | Honorable, General (para. 8-3) <b>NOTE:</b> The soldier's service normally will be characterized as Honorable.                          |

**Remarks:** An enlisted woman who is pregnant who elects to remain on active duty when counseled may, if she is still pregnant, subsequently request separation. Separation authority (Bn Cdr) **must** separate the soldier, but may set the separation date (para. 8-8g).

**NOTE:** An enlisted woman who requested separation in writing may subsequently request withdrawal of the separation request. The separation authority (Bn Cdr), based on the circumstances of the case and the best interest of the Army, will determine, in writing, if the soldier is to be separated, as previously requested, or is to be retained (para. 8-8h).

### **Documents Required for Chapter:**

- ( ) DA Form 4187 submitted by the soldier seeking early separation
- ( ) Pregnancy Counseling Checklist (Appendix E)
- ( ) Statement of Pregnancy Counseling (Appendix E)
- ( ) Medical Examination establishing pregnancy
- ( ) Education benefits counseling
- ( ) Debt avoidance counseling
- ( ) DA Form 2A/Enlisted Record Brief
- ( ) DA Form 2-1

## **CHAPTER 9: ALCOHOL OR OTHER DRUG REHABILITATION FAILURE**

This chapter provides authority for discharging soldiers enrolled in ADAPCP who are determined to be an alcohol or other drug abuse rehabilitation failure. Initiation of separation action is required for soldiers designated as alcohol/drug rehabilitation failures (para. 9-2c). Commander will make this determination in consultation with the ADAPCP Counselor.

|                                    |   |
|------------------------------------|---|
| <b>1-16 Counseling Required:</b>   | No  |
| <b>Medical Exam Required:</b>      | Yes (para. 1-32a)   |
| <b>Mental Evaluation Required:</b> | No (para. 1-32b)  |
| <b>Separation Procedure:</b>       | Notification (para. 9-3a)   |
| <b>Approval Authority:</b>         | Bn Cdr (para 1-19d) if no board is required<br>Bde Cdr (para 1-19c) |
| <b>Type of Discharge:</b>          | Honorable or General (para. 9-4)                                    |

**Remarks:** Read ADAPCP counselor's report. If **self-referral is mentioned** in the report, the soldier will receive an automatic Honorable Discharge unless this "limited use" evidence is removed from the packet prior to initiation of the elimination action.

### **Documents Required for Chapter:**

- ( ) Request for Legal Action (Appendix B)
- ( ) Statement from ADAPCP Counselor indicating rehabilitation failure
- ( ) Medical examination
- ( ) Education benefits counseling
- ( ) Debt avoidance counseling
- ( ) DA Form 2A/Enlisted Record Brief
- ( ) DA Form 2-1
- ( ) DA Form 268, Suspension of Favorable Personnel Action (Flag)



## **CHAPTER 10: DISCHARGE IN LIEU OF TRIAL BY COURT-MARTIAL**

A soldier, who has committed an offense or offenses, the punishment for which under the UCMJ and the MCM includes a bad conduct or dishonorable discharge, may submit a request for discharge in lieu trial by of court-martial. The accused soldier requests this chapter through defense counsel.

|                                    |   |
|------------------------------------|---|
| <b>1-16 Counseling Required:</b>   | No  |
| <b>Medical Exam Required:</b>      | No (unless requested by soldier, para. 10-6)  |
| <b>Mental Evaluation Required:</b> | No  |
| <b>Approval Authority:</b>         | GCMCA (para. 1-19a)   |
| <b>Type of Discharge:</b>          | An OTH discharge is normally appropriate (para. 10-8a). Approval of an OTH discharge results in the reduction of the soldier to the grade of E-1. |

Note: If GCMCA approves the request for discharge, the soldier must be expeditiously separated from the Army.

## **CHAPTER 11: ENTRY LEVEL STATUS PERFORMANCE AND CONDUCT**

In order for a soldier to qualify for this chapter, the command must initiate the chapter while the soldier is on the initial 180 days of continuous active military service. Soldier qualifies for separation under this chapter if soldier displays unsatisfactory performance and/or unsatisfactory conduct as evidenced by inability, lack of reasonable effort, failure to adapt to the military environment or minor disciplinary infractions. If separation of a soldier in entry-level status is warranted by reason of unsatisfactory performance (Chapter 13) or misconduct (Chapter 14-12a, minor disciplinary infractions), separation processing will be accomplished under this chapter.

|                                    |  |
|------------------------------------|--|
| <b>1-16 Counseling Required:</b>   | Yes (para. 11-4)                               |
| <b>Rehabilitative Transfer:</b>    | Yes (para. 1-16c), waivable (para. 1-16d)      |
| <b>Medical Exam Required:</b>      | No, but check para. 11-3b for pregnant females |
| <b>Mental Evaluation Required:</b> | No   |
| <b>Separation Procedure:</b>       | Notification (para. 11-7)                      |
| <b>Approval Authority:</b>         | Bn Cdr (para. 1-19d)                           |
| <b>Type of Discharge:</b>          | Uncharacterized (para. 11-8)                   |

**Remarks:** If BASD and information on DA Form 2A conflict, date on enlistment contract controls.

### **Documents Required for Chapter:**

- ( ) Request for Legal Action (Appendix B)
- ( ) All counseling statements including 1-16 counseling language (Appendix D) describing soldier's inability to adapt to the military environment.
- ( ) Education benefits counseling
- ( ) Debt avoidance counseling
- ( ) DA Form 2A/Enlisted Record Brief
- ( ) DA Form 2-1
- ( ) DA Form 268, Suspension of Favorable Personnel Action (Flag)

## **CHAPTER 13: SEPARATION FOR UNSATISFACTORY PERFORMANCE**

Commanders will separate a soldier for unsatisfactory performance when:

- ✓ the soldier will not develop sufficiently to participate satisfactorily in further training and/or become a satisfactory soldier; or
- ✓ the seriousness of the circumstances is such that the soldier's retention would have an adverse impact on military discipline, good order, and morale; or
- ✓ the soldier will likely be a disruptive influence in duty assignments; or
- ✓ the circumstances forming the basis for initiation of separation proceedings will likely continue or recur; or
- ✓ the soldier's ability to perform duties effectively is unlikely; or
- ✓ the soldier's potential for advancement or leadership is unlikely.

Unless the commander chooses to impose a bar to reenlistment, separation action under this chapter **MUST** be initiated for soldiers who fail two consecutive record APFTs or are eliminated for cause from a NCOES course.

|                                    |   |
|------------------------------------|---|
| <b>1-16 Counseling Required:</b>   | Yes (para. 13-4)  |
| <b>Rehabilitative Transfer:</b>    | Yes (para. 1-16c), waivable (para. 1-16d)                               |
| <b>Medical Exam Required:</b>      | Yes (para. 1-32a)   |
| <b>Mental Evaluation Required:</b> | Yes (para. 1-32b)   |
| <b>Separation Procedure:</b>       | Notification (para. 7-18c)  |
| <b>Approval Authority:</b>         | Bn Cdr (para. 1-19d) if no administrative board<br>Bde Cdr (para 1-19c) |
| <b>Type of Discharge:</b>          | Honorable, General (para. 13-11)  |

### **Documents Required for Chapter:**

( ) Request for Legal Action (Appendix B)

( ) All counseling statements including 1-16 counseling statement (Appendix D)

( ) For **APFT failures:** DA Form 705 - AR 350-41, Training in Units (pg 17) states that in the event of a record test failure, commanders may allow soldiers to retake the test as soon as **the soldier** and the commander feel the soldier is ready. Soldiers without a medical profile will be retested no later than three months following the initial APFT failure. When a soldier fails the initial record APFT, the soldier should be counseled using the 1-16 counseling language and informed of the date of their next record APFT which, for the purposes of this chapter, must be scheduled before the 90 days have expired. Soldiers do not have to wait for the scheduled record APFT date and can request, in writing, that they be permitted to retake the record APFT as soon as the soldier feels ready and with the understanding that if the soldier fails their second record APFT, they can be processed for separation.

( ) Debt avoidance counseling

- ( ) Medical examination
- ( ) Mental examination
- ( ) Education benefits counseling
- ( ) DA Form 2A/Enlisted Record Brief
- ( ) DA Form 2-1
- ( ) DA Form 268, Suspension of Favorable Personnel Action (Flag)
- ( ) Justification for waiver of requirement for rehabilitative transfer of soldier

## **CHAPTER 14-5/14-9: CONVICTION BY CIVIL COURT/FOREIGN CONVICTION**

A soldier may be considered for discharge when initially convicted by civil authorities if a punitive discharge (Bad Conduct Discharge or Dishonorable Discharge) would be authorized for the same or a closely related offense under the MCM, 2000, or when the sentence by civil authorities include confinement for six months or more, without regard to suspension or probation.

|                                    |  |
|------------------------------------|--|
| <b>1-16 Counseling Required:</b>   | No   |
| <b>Rehabilitative Transfer:</b>    | No   |
| <b>Medical Exam Required:</b>      | No   |
| <b>Mental Evaluation Required:</b> | No   |
| <b>Separation Procedure:</b>       | Administrative Board   |
| <b>Approval Authority:</b>         | Major Overseas Commander or, as delegated, GCMCA (para. 14-9a)                             |
| <b>Type of Discharge:</b>          | Honorable, General, OTH (IAW para. 14-3a, an OTH is normally appropriate for this chapter) |

**Remarks:** Initiation of separation action is **NOT** mandatory (para. 14-5b). Commanders will consider administrative reduction (AR 600-8-19) if a soldier is convicted by a civil court.

**NOTE:** When a soldier recommended for an OTH discharge waives his or her right to a hearing, the case will be processed without convening a board. The separation authority (GCMCA) will be the same as if the board was held (para 2-5a).

### **Documents Required for Chapter:**

- ( ) Request for Legal Action (Appendix B)
- ( ) Any court documents reflecting the **conviction** by civil authorities and the **sentence** imposed.
- ( ) Education benefits counseling
- ( ) Debt avoidance counseling
- ( ) DA Form 2A/Enlisted Record Brief
- ( ) DA Form 2-1
- ( ) DA Form 268, Suspension of Favorable Personnel Action (Flag)

## **CHAPTER 14-12a: MINOR DISCIPLINARY INFRACTIONS**

Soldiers are subject to separation for a pattern of misconduct consisting solely of minor military disciplinary infractions.

|                                    |  |
|------------------------------------|--|
| <b>1-16 Counseling Required:</b>   | Yes (para. 14-2 <u>d</u> )   |
| <b>Rehabilitative Transfer:</b>    | Yes (para. 1-16 <u>c</u> ), waivable (para. 1-16 <u>d</u> )                                |
| <b>Medical Exam Required:</b>      | Yes (para. 1-32 <u>a</u> )   |
| <b>Mental Evaluation Required:</b> | Yes (para. 1-32 <u>b</u> )   |
| <b>Separation Procedure:</b>       | Administrative board or notification procedure if OTH is not warranted (para. 14-13)       |
| <b>Approval Authority:</b>         | Bde Cdr [para. 1-19 <u>c</u> (2)(a)], unless OTH, then GCMCA or General Officer in command |
| <b>Type of Discharge:</b>          | Honorable, General, or OTH   |

**NOTE:** When a soldier recommended for an OTH discharge waives his or her right to a hearing, the case will be processed without convening a board. The separation authority (GCMCA) will be the same as if the board was held (para. 2-5a).

### **Documents Required for Chapter:**

- ( ) Request for Legal Action (Appendix B)
- ( ) Counseling statements including 1-16 counseling language (Appendix D) detailing pattern of disciplinary infractions.
- ( ) Medical examination
- ( ) Mental examination
- ( ) Education benefits counseling
- ( ) Debt avoidance counseling
- ( ) DA Form 2A/Enlisted Record Brief

## **CHAPTER 14-12b: ACTS OR PATTERNS OF MISCONDUCT**

Soldiers are subject to separation for discreditable involvement with civil or military authorities or conduct prejudicial to good order and discipline. Discreditable conduct and conduct prejudicial to good order and discipline includes conduct violative of accepted standards of personal conduct found in the UCMJ, Army regulations, the civil law, and time-honored customs and traditions of the Army.

|                                    |  |
|------------------------------------|--|
| <b>1-16 Counseling Required:</b>   | Yes (para. 14-2 <u>d</u> )   |
| <b>Rehabilitative Transfer:</b>    | Yes (para. 1-16 <u>c</u> ), waivable (para. 1-16 <u>d</u> )                                |
| <b>Medical Exam Required:</b>      | Yes (para. 1-32 <u>a</u> )   |
| <b>Mental Evaluation Required:</b> | Yes (para. 1-32 <u>b</u> )   |
| <b>Separation Procedure:</b>       | Administrative board or notification procedure if OTH is not warranted (para. 14-13)       |
| <b>Approval Authority:</b>         | Bde Cdr [para. 1-19 <u>c</u> (2)(a)], unless OTH, then GCMCA or General Officer in command |
| <b>Type of Discharge:</b>          | Honorable, General, or OTH   |

**NOTE:** When a soldier recommended for an OTH discharge waives his or her right to a hearing, the case will be processed without convening a board. The separation authority (GCMCA) will be the same as if the board was held (para 2-5a).

### **Documents Required for Chapter:**

- ( ) Request for Legal Action (Appendix B)
- ( ) Counseling statements including 1-16 counseling language (Appendix D) detailing soldier's pattern of misconduct.
- ( ) Evidence of misconduct to include Summary Courts-Martial Result of Trial (DA Form 2329), Article 15s, bad check notification, reprimand, bar to reenlistment, etc.
- ( ) Medical examination
- ( ) Mental examination
- ( ) Education benefits counseling
- ( ) Debt avoidance counseling
- ( ) DA Form 2A/Enlisted Record Brief
- ( ) DA Form 2-1
- ( ) Justification for waiver of requirement for rehabilitative transfer
- ( ) DA Form 268, Suspension of Favorable Personnel Action (Flag)

## **CHAPTER 14-12c: COMMISSION OF A SERIOUS OFFENSE**

A soldier may be separated for a commission of a serious offense if the specific circumstances of the offense warrant separation and a punitive discharge would be authorized for the same or a closely related offense under the MCM and for the following reasons:

1. An absentee returned to military control from a status of **AWOL** or desertion may be separated for commission of a serious offense.
2. Abuse of illegal drugs is serious misconduct.
  - First-time drug offenders below the rank of SGT and with less than 3 years total military service, Active and Reserve, **may be processed** for separation upon discovery of drug offense [para. 14-12c(2)(c)].
  - First-time drug offenders in the grade of SGT and above or all soldiers with 3 years or more of total military service, Active and Reserve, **will be processed** for separation upon discovery of a drug offense [para. 14-12c(2)(d)].
  - Second-time drug offenders **must be processed** for separation after a second offense [para. 14-12c(2)(e)].

|                                    |  |
|------------------------------------|--|
| <b>1-16 Counseling Required:</b>   | No   |
| <b>Rehabilitative Transfer:</b>    | No   |
| <b>Medical Exam Required:</b>      | Yes (para. 1-32a)  |
| <b>Mental Evaluation Required:</b> | Yes (para. 1-32b)  |
| <b>Separation Procedure:</b>       | Administrative board or notification procedure if OTH is not warranted (para. 14-13) |
| <b>Approval Authority:</b>         | Bde Cdr [para. 1-19c(2)(a)], unless OTH, then GCMCA or General Officer in command    |
| <b>Type of Discharge:</b>          | Honorable, General, or OTH   |

**NOTE:** When the sole basis for separation is a serious offense which resulted in a conviction by a court-martial authorized to but not imposing a punitive discharge, the soldier's service may not be characterized as OTH unless such characterization is approved by the Secretary of the Army (para. 14-3b).

### **Documents Required for Chapter:**

- ( ) Request for Legal Action (Appendix B)
- ( ) Education benefits counseling
- ( ) Evidence of misconduct to include Summary Courts-Martial Result of Trial (DA Form 2329), Article 15s, bad check notification, reprimand, bar to reenlistment, etc.
- ( ) Medical examination



- ( ) Mental examination
- ( ) DA Form 2A/Enlisted Record Brief
- ( ) DA Form 2-1
- ( ) Debt avoidance counseling
- ( ) DA Form 268, Suspension of Favorable Personnel Action (Flag)

## **CHAPTER 15: DISCHARGE FOR HOMOSEXUAL CONDUCT**

Before initiating any action regarding homosexuality, carefully read AR 635-200, Chapter 15, and AR 600-20, paragraph 4-19 and then **CONTACT YOUR TRIAL COUNSEL!!!!** No investigation of alleged homosexual conduct will be initiated by a commander without first coordinating with Trial Counsel.

A soldier may be separated under this chapter if:

- the soldier has made a statement that he or she is a homosexual or bisexual, or made some other statement indicating a propensity or intent to engage in homosexual acts;
- the soldier has engaged in, attempted to engage in, or solicited another person to engage in a homosexual act or acts; or
- the soldier has married or attempted to marry an individual of the same gender.

|                                    |  |
|------------------------------------|--|
| <b>1-16 Counseling Required:</b>   | No   |
| <b>Medical Exam Required:</b>      | Yes (para. 1-32a)  |
| <b>Mental Evaluation Required:</b> | Yes (para. 1-32b)  |
| <b>Separation Procedure:</b>       | Administrative board [para. 15-6b(2)]                                |
| <b>Approval Authority:</b>         | Bde Cdr unless OTH warranted [para. 1-19c(3)(a) and (b)], then GCMCA |
| <b>Type of Discharge:</b>          | Honorable, General, and OTH (but see note below)                     |

**NOTE:** Under the provisions AR 635-200, paragraph 15-4a, when the sole basis for separation is homosexual conduct, an OTH discharge may be issued **only if** there is a finding during the current term of service that the soldier attempted, solicited, or committed a homosexual act:

- (1) By using force, coercion or intimidation.
- (2) With a person under 16 years of age.
- (3) With a subordinate in circumstances that violate customary military superior-subordinate relationships.
- (4) Openly in public view.
- (5) For compensation.
- (6) Aboard a military vessel or aircraft
- (7) In another location subject to military control under aggravating conditions noted in finding that have an adverse impact on discipline, good order, or morale comparable to the impact of such activity aboard a vessel or aircraft.

### **Documents Required for Chapter:**

- ( ) A credible, un rebutted statement by the soldier indicating a propensity or intent to engage in homosexual acts    **OR**
- ( ) Documentation showing that the soldier has engaged in homosexual acts, married or attempted to marry an individual of the soldier's gender, or any evidence required to support the recommendation for an other than honorable conditions discharge.

- ( ) Medical examination
- ( ) Mental examination
- ( ) Education benefits counseling
- ( ) Debt avoidance counseling
- ( ) DA Form 2A/Enlisted Record Brief
- ( ) DA Form 2-1
- ( ) DA Form 268, Suspension of Favorable Personnel Action (Flag)

## **CHAPTER 16-2: DISCHARGE FOR ACCEPTANCE INTO A PROGRAM LEADING TO A COMMISSION OR WARRANT OFFICER APPOINTMENT**

Separation under this provision may be requested by those soldiers who have been accepted to an ROTC, OCS, WOC, or similar program and, upon graduation, the soldier will be commissioned or appointed as a warrant officer in any branch of the United States Armed Forces.

|                                    |                              |
|------------------------------------|------------------------------|
| <b>1-16 Counseling Required:</b>   | No                           |
| <b>Medical Exam Required:</b>      | Yes (AR 40-29 and AR 40-501) |
| <b>Mental Evaluation Required:</b> | No (para. 1-32b)             |
| <b>Approval Authority:</b>         | Bn Cdr (para. 1-19d)         |
| <b>Type of Discharge:</b>          | Honorable (para. 16-2e)      |

**NOTE:** To qualify for early separation under the provisions of this paragraph, the soldier **MUST** have completed at least two years of active duty plus three months of active duty for each month of specialized training received (MOS, language, Ranger, etc.)

### **Documents Required for Chapter:**

- ( ) Medical Examination showing the soldier meets ROTC procurement medical fitness standards.
- ( ) Acceptance letter from the educational facility indicating latest acceptable registration date.
- ( ) Acceptance letter from the Professor of Military Science of the educational facility stating the soldier will participate in ROTC.
- ( ) Education benefits counseling
- ( ) Debt avoidance counseling
- ( ) DA Form 2A/Enlisted Record Brief.
- ( ) DA Form 2-1.
- ( ) Any other documentation required by HQ, Cadet Command.

## **CHAPTER 16-4: NON-RETENTION ON ACTIVE DUTY**

Separation under this provision is requested by those soldiers who want to be discharged because they refuse to take action to meet military service remaining requirements by signing DA Form 4991-R – Declination of Continued Service Statement.

|                                    |                         |
|------------------------------------|-------------------------|
| <b>1-16 Counseling Required:</b>   | No                      |
| <b>Medical Exam Required:</b>      | No                      |
| <b>Mental Evaluation Required:</b> | No                      |
| <b>Approval Authority:</b>         | Bn Cdr (para. 1-19d)    |
| <b>Type of Discharge:</b>          | Honorable (para. 16-5g) |

### **Documents Required for Chapter:**

- ( ) Personnel Action, DA Form 4187 requesting separation
- ( ) Declination of Continued Service Statement, DA Form 4991-R
- ( ) Education benefits counseling
- ( ) Debt avoidance counseling
- ( ) DA Form 2A/Enlisted Record Brief
- ( ) DA Form 2-1

## **CHAPTER 18: FAILURE TO MEET BODY FAT STANDARDS**

Soldiers who fail to meet the body fat standards set forth in AR 600-9 are subject to separation when such condition is the sole basis for the separation. IAW AR 600-9 and IAW AR 635-200, a commander may separate a soldier who is in the weight control program using two different criteria:

1. If no medical condition exists, initiation of separation proceedings **is required** for soldiers who do not make satisfactory progress in the program after a period of six months, **unless** the responsible commander chooses to impose a bar to reenlistment per AR 601-280, Chapter 6 (para. 18-2a(2)).

2. Initiation of separation proceedings **is required** for soldiers who fail to meet **screening table weight and body fat** standards during the 24-month period following removal from the weight control program, provided no medical conditions exist (para. 18-2a(3)).

|                                     |   |
|-------------------------------------|---|
| <b>1-16 Counseling Required:</b>    | Yes (para. 18-2a)   |
| <b>Medical Exam Required:</b>       | Yes (para. 1-32a)   |
| <b>Mental Evaluation Required:</b>  | No (para. 1-32b)  |
| <b>Separation Procedure:</b>        | Notification procedure  |
| <b>Approval Authority:</b>          | Bn Cdr (para 1-19d) if no board is required<br>Bde Cdr (para 1-19c) |
| <b>Characterization of Service:</b> | Honorable (para. 18-2e)   |

**REMARKS:** Below is a proposed course of action for those commanders who identify a soldier who is overweight:

1. Soldier is weighed and taped and determined to exceed the screening table weight (pg 7, AR 600-9) and determined to exceed the body fat standard (pg 4, AR 600-9 as amended in IC 1, 4 Mar 94).

2. Commander initiates flag (DA Form 268). The commander informs the soldier of enrollment into the overweight program in memorandum format, which the soldier acknowledges.

3. Commander refers the soldier to the nutritionist for nutritional counseling and proper weight-loss counseling. This is done by memorandum and must take place as soon as the soldier is enrolled in the program.

4. Commander refers the soldier to the Consolidated Soldier Care Clinic for medical screening to determine if there is a medical condition that will preclude the soldier from losing weight. This is also done by memorandum and also must take place as soon as possible after the soldier has been enrolled in the program.

5. Conduct monthly weigh-in. If the soldier shows no improvement in any two consecutive monthly weigh-ins, chapter or impose a bar. If after six months, the commander determines that the soldier has not shown adequate improvement, the commander can either impose a bar to reenlistment or can chapter.

6. If the soldier meets the body fat standard and the screening table weight table as prescribed in AR 600-9, remove the soldier from the overweight program. This removal is by memorandum and should be kept on file in the unit for the next 24 months.

**Documents Required for Chapter:**

1. Unsatisfactory progress or failure to make satisfactory progress.

( ) Request for Legal Action (Appendix B)

( ) Notification from Commander and receipt of notification from Soldier acknowledging entry into Weight Control Program. **The clock begins upon receipt by the soldier.**

( ) Memorandum from health care personnel indicating no medical condition exists which precludes the soldier from losing weight. **Completed and DATED.**

( ) Memorandum from nutritionist indicating the soldier was provided nutrition education and weight reduction counseling. **Completed and DATED.**

( ) Monthly weigh-in sheets

( ) Medical examination

( ) Education benefits counseling

( ) Debt avoidance counseling

( ) DA Form 2A/Enlisted Record Brief

( ) DA Form 2-1

( ) DA Form 268, Suspension of Favorable Personnel Action (Flag)

2. Reentry in the Army Weight Control Program between 24 months of removal.

( ) Request for Legal Action (Appendix B)

( ) Copy of complete prior weight control packet, to include disenrollment memorandum (pg 10, AR 600-9).

( ) Notification from Commander and receipt of notification from soldier acknowledging entry into Weight Control Program. **The clock begins upon receipt by the soldier.**

( ) Memorandum from health care personnel indicating no medical condition exists which precludes the soldier from losing weight. **Completed and DATED.**

( ) Memorandum from nutritionist indicating the soldier was provided nutrition education and weight reduction counseling. **Completed and DATED.**

( ) Monthly weigh-in sheets

( ) Medical examination

( ) Education benefits counseling

( ) Debt avoidance counseling

( ) DA Form 2A/Enlisted Record Brief

( ) DA Form 2-1

( ) DA Form 268, Suspension of Favorable Personnel Action (Flag)